

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
IN MARTINSBURG**

GLORIA ROSEANNA JONES,

Petitioner,

v.

**Civil Action No. 3:05-CV-63
Criminal Action No. 3:03-CR-31
(BROADWATER)**

UNITED STATES OF AMERICA,

Respondent.

ORDER

On this day the above-styled matter came before the Court for consideration of the Magistrate Judge's Report and Recommendation dated September 26, 2005. The report recommends that the Court enter an order denying the petitioner's §2255 motion as being untimely and dismiss the case from the docket.

The petitioner served an objection dated October 4, 2005 to the Report and Recommendation . The grounds for the objection are first, that the petition is timely due to equitable tolling, and second, that the Court must consider the merits of the petition since the United States Supreme Court rules on the retroactivity of *U. S. v. Booker*.

After reviewing the above, the court concludes that the Report and Recommendation should be adopted. The Magistrate Judge clearly states the law of the United States Court of Appeals for the Fourth Circuit on this issue. Furthermore, a review of the criminal file in this case clearly sets forth that the petitioner entered into a plea agreement with benefit of legal counsel and stipulated the total drug relevant conduct.

Therefore, the Court,

ORDERS that the Magistrate Judge's Report and Recommendation is hereby **ADOPTED**, that the petitioner's §2255 motion be **DENIED** as untimely, and that the case be **DISMISSED** from the docket of this Court.

The petitioner is hereby informed that, as the United States is a responding party herein, notice of appeal must be filed within sixty (60) days after the entry of judgment with the United States Court of Appeals for the Fourth Circuit, in accordance with Federal Rules 11 for Section 2255 Proceedings and Federal Rule of Appellate Procedure 4(a).

The Clerk is directed to serve a copy upon *pro se* petitioner at her place of incarceration, Federal Prison Alderson, West Virginia and the United States Attorney for the Northern District of West Virginia as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: February 13, 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE